

SENATE, No. 3061
STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED JUNE 29, 2015

Sponsored by:

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District 30 (Monmouth and Ocean)
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District 20 (Union)

Co-Sponsored by:

Senators Bateman, Kyrillos, A.R.Bucco and Sweeney

SYNOPSIS

Regulates tethering of, and outdoor shelter for, dogs.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning the tethering of, and proper outdoor shelter for, dogs, supplementing Title 4 of the Revised Statutes, and amending P.L.1995, c.255 and R.S.4:22-26.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. (New section) As used in P.L. , c. (C.) (pending before the Legislature as this bill):

“Proper outdoor shelter” means an outdoor structure that conforms with the standards set forth in subsection b. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill).

“Tether” means to fasten a dog with an object such as a cable, chain, rope, or other similar object to a stationary object or to a device that is mobile, including, but not limited to, a trolley or pulley, in order to restrict the dog’s movement. “Tether” also means the cable, chain, rope, or other similar object used to fasten a dog, as applicable.

“Animal care facility” means an animal rescue organization facility, foster home, kennel, shelter, or pound as these terms are defined pursuant to section 1 of P.L.1941, c.151 (C.4:19-15.1).

2. (New section) a. It shall be unlawful to tether a dog, or for an owner or other person with custody or control of the dog to allow the dog to remain tethered, whether indoors or outdoors:

(1) by means of any collar other than a buckle collar that has a metal or plastic buckle and that is properly sized and fitted for the restraint and comfort of the dog being tethered;

(2) by means of a halter;

(3) with a tether to which a weight is attached;

(4) with a tether consisting of metal chain links that are more than one-quarter of an inch thick or materials other than plastic-coated or vinyl-coated wire cable;

(5) without swivels on both ends of the tether to prevent twisting and tangling;

(6) with a tether restraining more than one dog on the same tether; or

(7) with a tether that permits the dog to reach any window sill, fence, wall, porch or terrace railing, vehicle, tree, pole, tether restraining another dog, pool, public road or highway, or other object or location that poses a risk of entanglement, strangulation, drowning, or other harm to the health or safety of the dog, whenever the owner or other person with custody or control of the dog is not outdoors and is not in the immediate presence of the dog.

b. It shall be unlawful to tether a dog outdoors, or for an owner or other person with custody or control of the dog to allow the dog to remain tethered outdoors, for more than 30 minutes:

(1) between the hours of 10 p.m. and 7 a.m.;

(2) by means of a tether that does not permit a dog to walk at least twelve feet in any one direction; or

(3) when:

(a) a weather advisory or warning issued by federal, State, or local authorities is in effect;

(b) the outdoor ambient temperature is 32 degrees Fahrenheit or below, or 90 degrees Fahrenheit or above; or

(c) other outdoor environmental conditions, including, but not limited to, wind, rain, snow, ice, sleet, and hail, or extreme heat or cold that a person would know, or reasonably should know, could pose an adverse risk to the health or safety of the dog, based on the dog's size, age, and physical condition, and the thickness of the dog's hair or fur.

c. The provisions of subsection b. of this section shall not apply if the owner or the person with custody or control of the dog is outdoors on the property where the dog is tethered.

3. (New section) a. It shall be unlawful to put a dog outdoors for longer than 30 minutes, or for an owner or other person with custody or control of a dog to allow the dog to remain outdoors for longer than 30 minutes, under the conditions described in paragraph (3) of subsection b. of section 2 of P.L. , c.

(C.) (pending before the Legislature as this bill) without providing the dog with easy access to proper outdoor shelter as described in subsection b. of this section. This subsection shall not apply if the owner or the person with custody or control of the dog is outdoors on the property where the dog is outdoors.

b. Proper outdoor shelter for a dog shall meet the following standards:

(1) The materials used to construct any primary structure pursuant to paragraphs (2) through (5) of this subsection shall not include pressure-treated wood or any other materials that are potentially harmful to the

health or safety of a dog, as determined by the Department of Health;

(2) A proper outdoor shelter shall consist of a primary structure with four walls and a roof that is soundly constructed to prevent the sagging or collapsing of any wall or the roof of the primary structure;

(3) The primary structure shall have adequate air circulation and contain (a) sufficient space so that (i) there are at least three inches between the ceiling of the structure and the top of the head of the dog when the dog is in a normal standing position inside the primary structure, and (ii) the dog can easily turn around in a full circle and lie down with limbs outstretched when inside the primary structure, and (b) dry bedding and insulation of a kind and quantity to meet the health and safety needs of the dog, including, but not limited to, retention of the dog's body heat, based on the outdoor environmental conditions, the size and type of the primary structure and the dog's size, age, and physical condition, and thickness of the dog's hair or fur;

(4) The floor of the primary structure shall not be the ground under the structure or made of coated or uncoated wire, and shall: (a) be soundly constructed to prevent sagging or collapse of the floor, (b) be raised at least six inches from the ground and affixed to a foundation, including, but not limited to, a plastic or wooden pallet or concrete blocks, to permit air flow beneath the structure, prevent rain, snow, ice, sleet, hail, and other precipitation from entering the structure, and prevent the structure from being easily tipped or moved, and (c) have no openings through which the paws of the dog could pass when the dog is inside the primary structure;

(5) Between November 1 and April 30, the primary structure shall have a windbreak at its entrance;

(6) A proper outdoor shelter shall be maintained in a manner that minimizes any accumulation of rain, snow, ice, sleet, hail, and other precipitation inside, underneath, and surrounding the primary structure;

(7) A proper outdoor shelter shall provide a reasonably sanitary, obstruction-free environment so that there is minimal accumulation of excreta and other waste and debris inside, underneath, and surrounding the primary structure; and

(8) When the dog is in a proper outdoor shelter, the dog shall have easy access to water that is sanitary and in a liquid state.

c. The failure of an outdoor shelter to meet the standards of a proper outdoor shelter shall be indicated by:

(1) the unhealthy appearance or physical condition of the dog; or

(2) the appearance of the outdoor shelter, including, but not limited to (a) the small size of the primary structure, (b) evidence of unsound construction, (c) the absence of dry bedding or insulation sufficient to protect the dog from outdoor environmental conditions, (d) evidence of crowding or unsanitary conditions within or outside the outdoor shelter, (e) the absence of water that is sanitary and in a liquid state, or no easy access for the dog to such water; or (f) any other observed condition or circumstance indicating the poor care or health of the dog.

4. (New section) The Department of Health shall provide in writing to each municipality information concerning the provisions of, and compliance with, sections 1, 2, 3, and 8 of P.L. , c. (C.) (pending before the Legislature as this bill) and paragraph (6) of subsection a. of R.S.4:22-26, to be distributed by the

municipality at the time of licensing to each person licensing a dog, along with any other information provided by the municipality to a dog owner at the time of licensing a dog.

5. (New section) a. Notwithstanding the provisions of any other law, or rule or regulation adopted pursuant thereto, to the contrary, any humane law enforcement officer or agent of the New Jersey Society for the Prevention of Cruelty to Animals or county society for the prevention of cruelty to animals, certified animal control officer, or other State or local law enforcement officer may, upon issuance of a warrant finding probable cause that a dog is tethered or allowed outdoors without proper outdoor shelter in violation of section 2 or 3 of P.L. , c. (C.) (pending before the Legislature as this bill) or paragraph (6) of subsection a. of R.S.4:22-26, enter onto the private property where the dog is located and take physical custody of the dog.

b. Notwithstanding the provisions of any other law, or rule or regulation adopted pursuant thereto, to the contrary, any humane law enforcement officer or agent of the New Jersey Society for the Prevention of Cruelty to Animals or county society for the prevention of cruelty to animals, certified animal control officer, or other State or local law enforcement officer who has reasonable cause to believe that a dog, due to a violation of the tethering or proper outdoor shelter provisions of section 2 or 3 of P.L. , c. (C.) (pending before the Legislature as this bill) or paragraph (6) of subsection a. of R.S.4:22-26, is at risk of imminent harm, may immediately enter onto the private property where the dog is located, and take physical custody of the dog.

c. Upon a dog being taken into physical custody pursuant to subsection a. or b. of this section, the dog shall be placed in an appropriate animal care facility to ensure the humane care and treatment of the dog. If, after the dog has been taken into physical custody, a licensed veterinarian makes a written determination that the dog is in intractable and extreme pain and beyond any reasonable hope of recovery with reasonable medical treatment, the dog may be euthanized immediately.

d. Upon taking physical custody of a dog pursuant to subsection a. or b. of this section, the person taking physical custody of the dog shall post immediately in a conspicuous place at the location where the dog was taken, a notice to the dog's owner or to the person with custody or control of the dog that provides: (1) a description of the dog; (2) the statutory authority and reason for taking custody of the dog; and (3) contact information, including at least a person's name, the name of any applicable office or entity, and a telephone number for the dog's owner or the person with custody or control of the dog to obtain information concerning the dog and the alleged violation;

e. As soon as practicable after taking physical custody of a dog, the person shall issue, or have issued, a summons to the alleged violator. If the alleged violator is not the owner of the dog, the person issuing the summons shall also notify the owner of the dog of the violation and provide the owner with a copy of the issued summons.

f. Any summons issued for a violation of section 2 or 3 of P.L. , c. (C.) (pending before the Legislature as this bill) or paragraph (6) of subsection a. of R.S.4:22-26, shall contain:

- (1) a description of the violation and statutory authority;
- (2) the penalty for the violation;

(3) contact information identifying at a minimum (a) the name of the investigating agency or office; (b) the name of the officer or agent issuing the summons or investigating the alleged violation; and (c) a telephone number for the investigating agency or office and the investigating officer or agent;

(4) notice of the right to voluntarily forfeit ownership or custody of the dog;

(5) notice of the violation of the provisions of P.L. , c. (C.) (pending before the Legislature as this bill) and the action or actions required for compliance; and

(6) a written demand for immediate compliance with the violated provisions of P.L. , c. (C.) (pending before the Legislature as this bill).

g. If a dog has not been euthanized pursuant to subsection c. of this section or voluntarily surrendered by the owner, any humane law enforcement officer or agent of the New Jersey Society for the Prevention of Cruelty to Animals or county society for the prevention of cruelty to animals, certified animal control officer, or other State or local law enforcement officer may petition a court of competent jurisdiction to have the dog confiscated, if not previously seized, and forfeited upon the conviction of a person for tethering the dog or failing to provide the dog with proper outdoor shelter in violation of section 2 or 3 of P.L. , c.

(C.) (pending before the Legislature as this bill) or paragraph (6) of subsection a. of R.S.4:22-26. Upon a finding that continued possession of the dog by the dog's owner or custodian poses a threat to the dog's health or safety, the court shall order that the dog be forfeited, placed in an animal care facility, and made available for adoption.

h. A dog taken into physical custody pursuant to subsection a. or b. of this section, but not euthanized, surrendered, or confiscated and forfeited pursuant to a court order shall be returned to the owner or other person with custody or control of the dog only upon proof to the court that the owner or other person with custody or control of the dog is in compliance with P.L. , c. (C.) (pending before the Legislature as this bill) and paragraph (6) of subsection a. of R.S.4:22-26.

i. A person found guilty of violating any provision of P.L. , c. (C.) (pending before the Legislature as this bill) or paragraph (6) of subsection a. of R.S.4:22-26 shall be responsible for, and pay, the reasonable costs of caring for the dog from the date on which physical custody of the dog was taken pursuant to this section until the date the dog is surrendered, forfeited, or returned, including, but not limited to, the costs associated with taking the dog into physical custody, including, but not limited to, the cost of transporting, sheltering, and feeding the dog, the cost of providing the dog with necessary veterinary care, and if the dog is euthanized, the cost of the euthanasia.

6. (New section) a. In addition to any penalties which may apply under Title 2C of the New Jersey Statutes or chapter 19 or 22 of Title 4 of the Revised Statutes, any person who violates P.L. , c. (C.) (pending before this Legislature as this bill) shall be guilty of a petty disorderly persons offense and:

(1) for a first offense, shall be fined, at the discretion of the court, \$100, or be imprisoned for a term of not more than 30 days, or both; and

(2) for a second offense, shall be fined, at the discretion of the court, \$200, or be imprisoned for a term of not more than 30 days, or both.

For a third or subsequent offense, the person shall be guilty of a disorderly persons offense and, at the discretion of the court, shall be fined not less than \$250 nor more than \$500, or be imprisoned for a term of

not more than three months, or both.

b. Beginning 72 hours after receipt of a summons and notice of violation, each day that the owner or other person with custody or control of the dog is still in possession of the dog but fails to comply with the requirements of P.L. _____, c. _____ (C. _____) (pending before the Legislature as this bill) or paragraph (6) of subsection a. of R.S.4:22-26 shall constitute a separate offense by the owner or custodian.

c. The court may, in its discretion, reduce the amount of any fine imposed for a violation of P.L. _____, c. _____ (C. _____) (pending before the Legislature as this bill) or paragraph (6) of subsection a. of R.S.4:22-26 by the amount the owner or other person with custody or control of the dog spends on bringing the dog's outdoor shelter into compliance with P.L. _____, c. _____ (C. _____) (pending before the Legislature as this bill) or paragraph (6) of subsection a. of R.S.4:22-26. The owner or other person with custody or control of the dog, as applicable, shall provide documentation of the costs in a form prescribed by the court.

7. Section 1 of P.L.1995, c.255 (C.4:22-26.1) is amended to read as follows:

1. [An] a. A humane law enforcement officer or agent of the New Jersey Society for the Prevention of Cruelty to Animals or county society for the prevention of cruelty to animals, [or] a certified animal control officer, or other State or local law enforcement officer, may petition a court of competent jurisdiction to have any animal confiscated [and forfeited that is owned or possessed by a person] at the time the humane law enforcement officer or agent, certified animal control officer, or other State or local law enforcement officer has probable cause to believe the person is [found to be guilty of violating] in violation of R.S.4:22-17, R.S.4:22-18, R.S.4:22-19, R.S.4:22-20 or R.S.4:22-23. Upon confiscation, the animal shall be placed in an appropriate animal care facility for the humane care and treatment of the animal.

Upon a finding that the continued possession by that person poses a threat to the animal's [welfare] health or safety, or upon a finding that the person is guilty of violating R.S.4:22-17, R.S.4:22-18, R.S.4:22-19, R.S.4:22-20 or R.S.4:22-23, the court may, in addition to any other penalty that may be imposed for a violation of R.S.4:22-17, R.S.4:22-18, R.S.4:22-19, R.S.4:22-20 or R.S.4:22-23, adjudge [an] the animal forfeited for such disposition as the court deems appropriate.

b. In addition to the provisions of subsection a. of this section, for tethering or proper outdoor shelter violations pursuant to section 2 or 3 of P.L. _____, c. _____ (C. _____) (pending before the Legislature as this bill), sections 5 and 6 of that act shall also apply.

(cf: P.L.1995, c.255)

8. (New section) No provision of P.L. _____, c. _____ (C. _____) (pending before the Legislature as this bill) shall be construed to limit any protection afforded to any dog pursuant to any other State law, any rule or regulation adopted pursuant thereto, or any local ordinance, resolution, or regulation.

9. R.S.4:22-26 is amended to read as follows:

4:22-26. A person who shall:

a. (1) Overdrive, overload, drive when overloaded, overwork, abuse, or needlessly kill a living animal or creature, or cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done;

(2) Torment, torture, maim, hang, poison, unnecessarily or cruelly beat, cruelly abuse, or needlessly mutilate a living animal or creature, or cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done;

(3) Cause the death of, or serious bodily injury to, a living animal or creature from commission of any act described in paragraph (2), (4), or (5) [, or (6)] of this subsection, by any direct or indirect means, including but not limited to through the use of another living animal or creature, or otherwise cause or procure any such acts to be done;

(4) Fail, as the owner or a person otherwise charged with the care of a living animal or creature, to provide the living animal or creature with necessary care, or otherwise cause or procure such an act to be done; [or]

(5) Cause bodily injury to a living animal or creature from commission of the act described in paragraph (4) of this subsection; or

(6) Improperly tether a dog or fail to provide proper outdoor shelter for a dog, as described in sections 1, 2, and 3 of P.L. , c. (C.) (pending before the Legislature as this bill);

b. (Deleted by amendment, P.L.2003, c.232)

c. Inflict unnecessary cruelty upon a living animal or creature, by any direct or indirect means, including but not limited to through the use of another living animal or creature; or leave the living animal or creature unattended in a vehicle under inhumane conditions adverse to the health or welfare of the living animal or creature;

d. Receive or offer for sale a horse that is suffering from abuse or neglect, or which by reason of disability, disease, abuse or lameness, or any other cause, could not be worked, ridden or otherwise used for show, exhibition or recreational purposes, or kept as a domestic pet without violating the provisions of this article;

e. Keep, use, be connected with or interested in the management of, or receive money or other consideration for the admission of a person to, a place kept or used for the purpose of fighting or baiting a living animal or creature;

f. Be present and witness, pay admission to, encourage, aid or assist in an activity enumerated in subsection e. of this section;

g. Permit or suffer a place owned or controlled by him to be used as provided in subsection e. of this section;

h. Carry, or cause to be carried, a living animal or creature in or upon a vehicle or otherwise, in a cruel or inhumane manner;

i. Use a dog or dogs for the purpose of drawing or helping to draw a vehicle for business purposes;

j. Impound or confine or cause to be impounded or confined in a pound or other place a living animal or creature, and shall fail to supply the living animal or creature during such confinement with a sufficient quantity of good and wholesome food and water;

k. Abandon a maimed, sick, infirm or disabled animal or creature to die in a public place;

l. Willfully sell, or offer to sell, use, expose, or cause or permit to be sold or offered for sale, used or exposed, a horse or other animal having the disease known as glanders or farcy, or other contagious or

infectious disease dangerous to the health or life of human beings or animals, or who shall, when any such disease is beyond recovery, refuse, upon demand, to deprive the animal of life;

m. Own, operate, manage or conduct a roadside stand or market for the sale of merchandise along a public street or highway; or a shopping mall, or a part of the premises thereof; and keep a living animal or creature confined, or allowed to roam in an area whether or not the area is enclosed, on these premises as an exhibit; except that this subsection shall not be applicable to: a pet shop licensed pursuant to P.L.1941, c.151 (C.4:19-15.1 et seq.); a person who keeps an animal, in a humane manner, for the purpose of the protection of the premises; or a recognized breeders' association, a 4-H club, an educational agricultural program, an equestrian team, a humane society or other similar charitable or nonprofit organization conducting an exhibition, show or performance;

n. Keep or exhibit a wild animal at a roadside stand or market located along a public street or highway of this State; a gasoline station; or a shopping mall, or a part of the premises thereof;

o. Sell, offer for sale, barter or give away or display live baby chicks, ducklings or other fowl or rabbits, turtles or chameleons which have been dyed or artificially colored or otherwise treated so as to impart to them an artificial color;

p. Use any animal, reptile, or fowl for the purpose of soliciting any alms, collections, contributions, subscriptions, donations, or payment of money except in connection with exhibitions, shows or performances conducted in a bona fide manner by recognized breeders' associations, 4-H clubs or other similar bona fide organizations;

q. Sell or offer for sale, barter, or give away living rabbits, turtles, baby chicks, ducklings or other fowl under two months of age, for use as household or domestic pets;

r. Sell, offer for sale, barter or give away living baby chicks, ducklings or other fowl, or rabbits, turtles or chameleons under two months of age for any purpose not prohibited by subsection q. of this section and who shall fail to provide proper facilities for the care of such animals;

s. Artificially mark sheep or cattle, or cause them to be marked, by cropping or cutting off both ears, cropping or cutting either ear more than one inch from the tip end thereof, or half cropping or cutting both ears or either ear more than one inch from the tip end thereof, or who shall have or keep in the person's possession sheep or cattle, which the person claims to own, marked contrary to this subsection unless they were bought in market or of a stranger;

t. Abandon a domesticated animal;

u. For amusement or gain, cause, allow, or permit the fighting or baiting of a living animal or creature;

v. Own, possess, keep, train, promote, purchase, or knowingly sell a living animal or creature for the purpose of fighting or baiting that animal or creature;

w. Gamble on the outcome of a fight involving a living animal or creature;

x. Knowingly sell or barter or offer for sale or barter, at wholesale or retail, the fur or hair of a domestic dog or cat or any product made in whole or in part from the fur or hair of a domestic dog or cat, unless such fur or hair for sale or barter is from a commercial grooming establishment or a veterinary office or clinic or is for use for scientific research;

y. (1) Knowingly sell or barter, or offer for sale or barter, at wholesale or retail, for human consumption, the flesh of a domestic dog or cat, or any product made in whole or in part from the flesh of a

domestic dog or cat;

(2) Knowingly slaughter a horse for human consumption;

(3) Knowingly sell or barter, or offer for sale or barter, at wholesale or retail, for human consumption, the flesh of a horse, or any product made in whole or in part from the flesh of a horse, or knowingly accept or publish newspaper advertising that includes the offering for sale, trade, or distribution of any such item for human consumption;

(4) Knowingly transport a horse for the purpose of slaughter for human consumption;

(5) Knowingly transport horsemeat, or any product made in whole or in part from the flesh of a horse, for the purpose of human consumption;

z. Surgically debark or silence a dog in violation of section 1 or 2 of P.L.2002, c.102 (C.4:19-38 or C.4:19-39);

aa. Use a live pigeon, fowl or other bird for the purpose of a target, or to be shot at either for amusement or as a test of skill in marksmanship, except that this subsection and subsections bb. and cc. shall not apply to the shooting of game;

bb. Shoot at a bird used as described in subsection aa. of this section, or is a party to such shooting; or

cc. Lease a building, room, field or premises, or knowingly permit the use thereof for the purposes of subsection aa. or bb. of this section --

Shall forfeit and pay a sum according to the following schedule, to be sued for and recovered, with costs, in a civil action by any person in the name of the New Jersey Society for the Prevention of Cruelty to Animals or a county society for the prevention of cruelty to animals, as appropriate, or, in the name of the municipality if brought by a certified animal control officer or animal cruelty investigator:

For a violation of subsection e., f., g., u., v., w., or z. of this section or of paragraph (3) of subsection a. of this section, or for a second or subsequent violation of paragraph (2) or (5) of subsection a. of this section, a sum of not less than \$3,000 nor more than \$5,000;

For a violation of subsection l. of this section, for a first violation of paragraph (2) or (5) of subsection a. of this section, a sum of not less than \$1,000 nor more than \$3,000;

For a violation of paragraph (4) of subsection a. of this section, or subsection c. of this section, a sum of not less than \$500 nor more than \$2,000;

For a violation of subsection x. or paragraph (1) of subsection y. of this section, a sum of not less than \$500 nor more than \$1,000 for each domestic dog or cat fur or fur or hair product or domestic dog or cat carcass or meat product sold, bartered, or offered for sale or barter;

For a violation of paragraph (2), (3), (4), or (5) of subsection y. of this section, a sum of not less than \$500 nor more than \$1,000 for each horse slaughtered or transported for the purpose of slaughter for human consumption, or for each horse carcass or meat product transported, sold or bartered, or offered or advertised for sale or barter;

For a violation of subsection t. of this section, a sum of not less than \$500 nor more than \$1,000, but if the violation occurs on or near a highway, a mandatory sum of \$1,000;

For a violation of subsection d., h., j., k., aa., bb., or cc. of this section or of paragraph (1) of subsection a. of this section, a sum of not less than \$250 nor more than \$1,000; and

For a violation of subsection i., m., n., o., p., q., r., or s. of this section, or paragraph (6) of subsection a. of this section, a sum of not less than \$250 nor more than \$500.

(cf: P.L.2013, c.88, s.3)

10. This act shall take effect immediately.

STATEMENT

This bill would:

- 1) prohibit tethering of dogs under certain circumstances;
- 2) require proper outdoor shelter to be provided for dogs being left outdoors unattended for more than 30 minutes in certain weather conditions;
- 3) authorize the seizure of dogs in certain circumstances; and
- 4) establish penalties for violations of the tethering and outdoor shelter provisions.