

STATE OF NEW YORK

5854

2023-2024 Regular Sessions

IN ASSEMBLY

March 23, 2023

Introduced by M. of A. BRABENEC -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to tethering restrictions and proper outdoor shelter for dogs

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 353-b of the agriculture and markets law, as added
2 by chapter 594 of the laws of 2003, is amended to read as follows:

3 § 353-b. Appropriate shelter for dogs left outdoors. 1. For purposes
4 of this section:

5 (a) "Physical condition" shall include any special medical needs of a
6 dog due to disease, illness, injury, age, or breed about which the owner
7 or person with custody or control of the dog should reasonably be aware.

8 (b) "Inclement weather" shall mean weather conditions that are likely
9 to adversely affect the health or safety of the dog, including but not
10 limited to rain, sleet, ice, snow, hail, wind, or extreme heat and cold.

11 (c) "Extreme heat or cold" shall mean temperatures of thirty-two
12 degrees Fahrenheit or below, or ninety degrees Fahrenheit or above.

13 (d) "Dogs that are left outdoors" shall mean dogs that are outdoors in
14 inclement weather without ready access to, or the ability to enter, a
15 house, apartment building, office building, or any other permanent
16 structure that complies with the standards enumerated in paragraph (b)
17 of subdivision three of this section.

18 2. (a) Any person who owns or has custody or control of a dog that is
19 left outdoors for more than thirty minutes shall provide it with contin-
20 uous access to shelter appropriate to its breed, physical condition, and
21 the climate. Any person who knowingly violates the provisions of this
22 section shall be guilty of a violation, punishable by a fine of not less
23 than fifty dollars nor more than one hundred dollars for a first
24 offense, and a fine of not less than one hundred dollars nor more than
25 two hundred fifty dollars for a second and subsequent offenses. Begin-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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ning seventy-two hours after a charge of violating this section, each day that a defendant fails to correct the deficiencies in the dog shelter for a dog that he or she owns or that is in his or her custody or control and that is left outdoors, so as to bring it into compliance with the provisions of this section shall constitute a separate offense.

(b) The court may, in its discretion, reduce the amount of any fine imposed for a violation of this section by the amount which the defendant proves he or she has spent providing a dog shelter or repairing an existing dog shelter so that it complies with the requirements of this section. Nothing in this paragraph shall prevent the seizure of a dog for a violation of this section pursuant to the authority granted in this article.

3. Minimum standards for determining whether shelter is appropriate to a dog's breed, physical condition and the climate shall include:

(a) For dogs that are restrained in any manner outdoors, shade by natural or artificial means to protect the dog from exposure to direct sunlight, hot pavement, or any other hot surface at all times when such exposure [~~to sunlight~~] is likely to threaten the health of the dog.

(b) For all dogs that are left outdoors in inclement weather, a housing facility, which must:

(1) have a waterproof roof;

(2) be structurally sound and in good repair, with no sharp points or edges;

(3) be in an upright position at all times;

(4) have adequate ventilation sufficient to allow the dog to remain dry and maintain a normal body temperature;

(5) have a floor, insulation appropriate to local climatic conditions and sufficient to protect the dog from inclement weather and allow the dog to maintain a normal body temperature, and, if under thirty-two degrees Fahrenheit, a windbreak;

~~[(3)]~~ (6) be located reasonably away from flood areas and cleared of snow, precipitation, and debris;

(7) be constructed to allow each dog adequate freedom of movement to make normal postural adjustments, including the ability to stand up, turn around, and lie down with its limbs outstretched, and provide sufficient space such that when the dog is in a normal sitting position, the top of its head cannot touch the shelter ceiling;

(8) allow the dog access to clean, potable water, and exposure to natural or artificial light consistent with a regular cycle of day and night; and

~~[(4)]~~ (9) allow for effective removal of excretions, other waste material [~~+~~], dirt, and trash. The housing facility and the area immediately surrounding it shall be regularly cleaned to maintain a healthy and sanitary environment and to minimize health hazards.

4. Shelter appropriate to a dog's breed, physical condition, and the climate shall not include:

(a) a crawl space under a building or part of a building, such as under steps, a deck, or a stoop;

(b) the space under a vehicle; or

(c) a structure:

(1) made from pressure treated wood containing arsenic or chromium;

(2) that is located outdoors and made from cardboard or other materials that are easily degraded by the elements; or

(3) with a floor consisting of wire or chain-link or having openings through which the paw or foot of a dog can pass.

1 ~~5.~~ Inadequate shelter may be indicated by the appearance of the hous-
2 ing facility itself, including but not limited to, size, structural
3 soundness, evidence of crowding within the housing facility, healthful
4 environment in the area immediately surrounding such facility, or by the
5 appearance or physical condition of the dog.

6 ~~[5-]~~6. Upon a finding of any violation of this section, any dog or
7 dogs seized pursuant to the provisions of this article that have not
8 been voluntarily surrendered by the owner or custodian or forfeited
9 pursuant to court order shall be returned to the owner or custodian only
10 upon proof that appropriate shelter as required by this section is being
11 provided.

12 ~~[6-]~~7. Nothing in this section shall be construed to affect any
13 protections afforded to dogs or other animals under any other provisions
14 of this article.

15 § 2. The agriculture and markets law is amended by adding a new
16 section 352 to read as follows:

17 § 352. Unlawful tethering of dogs. 1. For purposes of this section,
18 "unoccupied or vacant property" means property that is devoid of human
19 inhabitants or occupants, or on which people do not regularly reside or
20 operate a business.

21 2. A person shall not tether or restrain a dog:
22 (a) if the dog is a nursing female, or is less than four months old;
23 (b) on unoccupied or vacant property, or any structure thereon;
24 (c) with a tether on which more than one dog is restrained;
25 (d) with a tether less than fifteen feet in length or which does not
26 permit the dog to walk at least fifteen feet in any one direction;

27 (e) with a tether that permits the dog to reach another dog or an
28 object or location that poses a risk of entanglement, strangulation,
29 drowning, or other harm to the health or safety of the dog, including,
30 but not limited to, another dog's tether or a window sill, fence, wall,
31 porch, terrace, railing, vehicle, tree, pole, pool, or public road or
32 highway;

33 (f) with the use of a choke collar, prong collar, head harness, chain
34 with metal links that are more than one quarter of an inch thick, or a
35 tether, collar, or harness to which a weight is attached;

36 (g) in a manner that prevents the dog's access to sanitary and liquid
37 water when tethered for more than thirty minutes;

38 (h) in a manner that exposes the dog to inclement weather, as defined
39 by paragraph (b) of subdivision one of section three hundred fifty-
40 three-b of this article, for more than thirty minutes; or

41 (i) in a manner that exposes the dog to accumulated waste or other
42 debris, precipitation, or flooding.

43 3. (a) The owner of a dog shall be liable for a violation of subdivi-
44 sion two of this section that occurs on any property belonging to such
45 owner or on which such owner resides at the time of the violation,
46 regardless of whether such owner is present when the violation occurs.

47 (b) A person with custody or control of a dog who is not the owner of
48 the dog shall be liable for a violation of subdivision two of this
49 section that occurs on any property belonging to such person or on which
50 such person resides at the time of the violation, regardless of whether
51 such person is present when the violation occurs.

52 4. Paragraphs (b), (d), and (e) of subdivision two of this section
53 shall not apply if, at all times while the dog is tethered or
54 restrained, any person, including the owner or person with custody or
55 control of the dog:

56 (a) is in the presence of the dog, whether indoors or outdoors; and

1 (b) can see the dog, unless the person is blind or visually impaired
2 so that the person cannot see the dog due to such blindness or visual
3 impairment, in which case the person shall remain immediately adjacent
4 to the dog.

5 5. Paragraph (d) of subdivision two of this section shall not apply if
6 the dog is indoors and a person is indoors with the dog.

7 6. Nothing in this paragraph shall prevent the seizure of a dog for a
8 violation of this section pursuant to the authority granted in this
9 article.

10 7. Nothing in this section shall be construed to affect any
11 protections afforded to dogs or other animals under any other provisions
12 of this article.

13 § 3. This act shall take effect immediately.