STATE OF NEW YORK

54

2023-2024 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 4, 2023

Introduced by M. of A. L. ROSENTHAL, THIELE, JACKSON, STERN -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to outdoor restraint of companion animals

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

Section 1. The agriculture and markets law is amended by adding a new section 353-g to read as follows:

§ 353-g. Outdoor restraint of companion animals. Definitions. 1. For the purposes of this section:

(a) "Tether" shall mean to restrain a dog by attaching the dog to any object or structure, including without limitation a house, tree, fence, post, garage, or shed, by any means, including without limitation a chain, rope, cord, leash, or running line. Tethering does not include the use of a leash to walk a dog.

(b) "Dangerous weather conditions" shall mean inclement weather as defined in section three hundred fifty-three-b of this article, conditions described in a weather alert, advisory or other warning issued by a local, state or federal authority, or when outside weather conditions, including but not limited to extreme heat, cold, wind, rain, snow, or hail, pose an adverse risk to the health or safety of a dog based on breed, age, and physical condition, in accordance with the industry standard set forth in the Tufts Animal Care and Condition Weather Safety Scale. Extreme heat and cold limitations shall mean an ambient temperature of eighty degrees Fahrenheit and thirty-five degrees Fahrenheit respectively.

(c) "Shelter" shall mean conditions that allow the dog to remain dry and to be protected from the elements. A shelter shall: (i) comply with the minimum standards for appropriate shelter established pursuant to section three hundred fifty-three-b of this article; (ii) be fully

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

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enclosed on all sides except one, which side shall have an opening that allows the dog easy entry to and exit from the shelter; (iii) have a slanted, waterproof roof; (iv) have a solid floor; (v) contain clean bedding or straw/shavings. If straw/shavings are used, they shall be replaced at least once every two weeks so that the dog can burrow into it for warmth; (vi) be small enough to retain the dog's body heat and large enough to allow the dog to stand, lie down with limbs outstretched, and turn around comfortably; and (vii) have a surrounding area that is free of standing water, ice, and waste.

(d) "Cruel conditions" or "inhumane tethering" shall include the following:

(i) Exposure to animal waste, garbage, noxious odors or objects that could injure or kill a dog, provided that a dog may be exposed to their own waste that was produced while tethered so long as any such waste is cleared prior to the dog being tethered.

(ii) Exposure to taunting, prodding, provoking, hitting, harassing, threatening or otherwise harming a tethered or confined dog.

(iii) Exposing a dog to dangerous conditions, including potential attacks by other animals.

(iv) Allowing a dog to become entangled.

(v) Being tethered to a vacant property.

(vi) Any tethering that could reasonably lead to the distress, serious discomfort, injury, or death of the dog.

2. Notwithstanding any other law to the contrary, it shall be unlawful to tether a dog outdoors, except when all of the following conditions are met:

(a) The tether shall: (i) be at least one inch thick and shall fit the dog properly and comfortably, including when used on a dog that has not finished growing, in which case the tether shall be modified to ensure a comfortable fit; (ii) connect at both ends with a swivel and be affixed in such a manner that it will prevent the dog from becoming entangled or injured, and generally not likely to entangle the dog; (iii) weigh less than 1/13th of the dog's weight and shall weigh less than twelve pounds; (iv) be free of tangles; (v) not be embedded, partially embedded, or prone to becoming embedded in a dog's skin; (vi) restrain the dog to the owner's property in such a way as to prevent the dog from reaching hazards, including but not limited to pools, fences, porches, or railing that poses a strangulation risk; and (vii) have an appropriate length such that the tether must allow the dog sufficient movement to urinate in a separate area from the area where it must eat, drink, or lie down.

(b) The length of a stationary tether shall not be less than fifteen feet in length, or five times the length of the dog's body as measured from the tip of the nose to the base of the tail, whichever length is greater.

(c) If the dog is tethered to a pulley, running line, or trolley or cable system, it must be a minimum of fifteen feet long and less than seven feet above the ground.

(d) The tether must be attached to the dog with a buckle type collar or a body harness made of material not normally susceptible to being severed by the dog through chewing or otherwise and that will not cause trauma to the dog.

(e) Choke-, pinch-, or prong-type collars, attached weights or chain links over one-quarter inch thick, or any other collar that restrains the dog in such a manner that it impairs the flow of oxygen or blood to the dog, which may cause choking or substantial discomfort to the dog, shall not be utilized for tethering.

(f) The tethered dog must:
(i) be at least six months old;
(ii) not be a nursing female or in the advanced stages of pregnancy;
(iii) not be suffering from illness, debilitating disease, injury, or distress; and
(iv) be apparently free of any health condition that would be exacerbated by tethering.
(g) If there are multiple dogs, each must be tethered separately.
(h) No dog shall be tethered outdoors between the hours of ten p.m. and six a.m.
(i) A dog shall not be tethered outside for longer than four consecutive hours or a total time outside in excess of six hours in a twenty-four hour period.
(j) The dog must not be tethered outdoors when a weather advisory or warning is issued by local, state or federal authorities or when outdoor environmental conditions, including, but not limited to, heat, cold, wind, rain, snow or hail, pose an adverse risk to the health or safety of such dog based on such dog's breed, age or physical condition.
(k) Tethered dogs must have unencumbered access to shade, food, water, shelter, and dry ground without becoming entangled.
(l) Tethered dogs must be free of cruel conditions or inhumane tethering as defined in subdivision one of this section.
3. Tethering a supervised dog for less than fifteen minutes in a public location shall not be a violation of this section so long as the tethered dog is free of cruel conditions or inhumane tethering.
4. This section shall be enforced by the attorney general.
(a) A violation of any of the provisions of this section shall, for a first offense, shall be punishable by a civil fine not to exceed five hundred dollars per dog.
(b) For a second offense, the fine shall be one thousand dollars per dog plus reimbursement of investigation costs.
(c) For a third or subsequent offense, the fine shall be three thousand dollars per dog plus reimbursement of investigation costs. Such person shall register with any applicable local animal abuse registry and shall forfeit all animals in such person's possession.
5. Nothing in this section shall be construed to limit or prevent a municipality from enacting or enforcing a local law, rule, regulation or ordinance regarding tethering or chaining of dogs, provided, however, that any such local law, rule, regulation or ordinance shall be no less stringent than the provisions of this section.
6. Nothing in this section shall be construed to affect any protections afforded to dogs under any other provisions of this article or other law or regulation.
7. The provisions of this section shall not apply to any federal, state, or local law enforcement agency.

§ 2. This act shall take effect on the thirtieth day after it shall have become a law.