

# STATE OF NEW YORK

5854--A

2023-2024 Regular Sessions

## IN ASSEMBLY

March 23, 2023

Introduced by M. of A. BRABENEC -- read once and referred to the Committee on Agriculture -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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1 two hundred fifty dollars for a second and subsequent offenses. Begin-  
2 ning seventy-two hours after a charge of violating this section, each  
3 day that a defendant fails to correct the deficiencies in the dog shel-  
4 ter for a dog that he or she owns or that is in his or her custody or  
5 control and that is left outdoors, so as to bring it into compliance  
6 with the provisions of this section shall constitute a separate offense.

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

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

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

20 (b) For all dogs that are left outdoors in inclement weather, a hous-  
21 ing facility, which must:

22 (1) have a waterproof roof;

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

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

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

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

32 [~~3~~] (6) be located reasonably away from flood areas and cleared of  
33 snow, precipitation, and debris;

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

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

42 [~~4~~] (9) allow for effective removal of excretions, other waste mate-  
43 rial[~~r~~], dirt, and trash. The housing facility and the area immediately  
44 surrounding it shall be regularly cleaned to maintain a healthy and  
45 sanitary environment and to minimize health hazards.

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

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

50 (b) the space under a vehicle; or

51 (c) a structure:

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

53 (2) that is located outdoors and made from cardboard or other materi-  
54 als that are easily degraded by the elements; or

55 (3) with a floor consisting of wire or chain-link or having openings  
56 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) in any manner or to any dog house, tree, fence, vehicle, or other  
23 stationary object for a period exceeding four non-consecutive increments  
24 of thirty minutes in a twenty-four hour period when not under the direct  
25 supervision of the owner of the dog or responsible person with custody  
26 or control of such dog;

27 (b) if the dog is ill, suffering from a debilitating disease, injured,  
28 or in distress, or is a nursing female, or is less than six months old;

29 (c) on unoccupied or vacant property, or any structure thereon;

30 (d) with a tether on which more than one dog is restrained;

31 (e) with a tether length of less than three times the length of the  
32 size of the dog, as measured from such dog's nose to the end of such  
33 dog's tail;

34 (f) with a tether that permits the dog to reach another dog or an  
35 object or location that poses a risk of entanglement, strangulation,  
36 drowning, or other harm to the health or safety of the dog, including,  
37 but not limited to, another dog's tether or a window sill, fence, wall,  
38 porch, terrace, railing, vehicle, tree, pole, pool, or public walkway,  
39 road, or highway;

40 (g) with the use of a choke collar, prong collar, head harness,  
41 martingale collar, or chain with metal links that are more than one  
42 quarter of an inch thick, or a tether, collar, or harness to which a  
43 weight is attached without a properly fitting harness or collar with a  
44 swivel attachment at each end that will not cause trauma or injury to  
45 the dog and allows normal breathing and swallowing;

46 (h) in a manner that prevents the dog's access to sanitary and liquid  
47 water, food, and proper shelter without becoming entangled when tethered  
48 for more than thirty minutes;

49 (i) in a manner that exposes the dog to inclement weather, as defined  
50 by paragraph (b) of subdivision one of section three hundred fifty-  
51 three-b of this article, for more than fifteen minutes; or

52 (j) in a manner that exposes the dog to accumulated waste or other  
53 debris, precipitation, or flooding.

54 3. (a) The owner of a dog shall be liable for a violation of subdivi-  
55 sion two of this section that occurs on any property belonging to such

1 owner or on which such owner resides at the time of the violation,  
2 regardless of whether such owner is present when the violation occurs.

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

8 4. Paragraphs (c), (e), and (f) of subdivision two of this section  
9 shall not apply if, at all times while the dog is tethered or  
10 restrained, any person, including the owner or person with custody or  
11 control of the dog:

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

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

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

19 6. Nothing in this section shall prevent the seizure of a dog for a  
20 violation of this section pursuant to the authority granted in this  
21 article.

22 7. Nothing in this section shall be construed to affect any  
23 protections afforded to dogs or other animals under any other provisions  
24 of this article.

25 § 3. This act shall take effect immediately.