



## Memorandum in Support

### COMMITTEE ON ANIMALS AND THE LAW

Animals #29

March 28, 2024

S. 6315-A

By: Senator Brisport

A. 54-A

By: M. of A. Rosenthal

Senate Committee: Agriculture

Assembly Committee: Agriculture

Effective Date: 30 days after enactment

**AN ACT** to amend the agriculture and markets law in relation to restraint of outdoor dogs and other animals

**LAW & SECTIONS REFERRED TO:** The Agriculture and Markets Law is amended by adding a new section, 353-g.

### THE COMMITTEE ON ANIMALS AND THE LAW

#### SUPPORTS THIS LEGISLATION

This bill would offer much needed protection for dogs that are tethered outside. The bill proposes specific definitions, which are critical, of what constitutes a tether, a “shelter,” inclement weather, and “cruel conditions and inhumane tethering.”

Dogs and other animals in this state that are limitlessly tied to stationary objects outdoors in inclement weather, or left in other inhumane conditions outdoors, are sadly afforded little protection under the current laws. Dogs can legally be left to languish outdoors in all kinds of unbearable weather conditions, on short leashes, chains, or other tethers, that do not afford the animal room to even move away from his or her own excrement. They desperately need legal protections.

The current law, AML Section 353-b, addresses “appropriate shelter for dogs left outdoors.” The language in that section, however, leaves too much to interpretation, which often results in no action being taken to help these animals. Section 353-b states that “any person who owns or has custody or control of a dog that is left outdoors shall provide it with shelter appropriate to its breed, physical condition and the climate.” This definition is entirely inadequate in giving agents charged with enforcing the law sufficient direction with respect to determining what is “appropriate” shelter.

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For example, existing Section 353-b defines “inclement weather” as “weather conditions that are likely to adversely affect the health or safety of the dog, including but not limited to rain, sleet, ice, snow, wind, or extreme heat and cold.” This definition allows for subjective interpretation, as what one person may perceive as “inclement,” another may perceive as acceptable.

Too often, well-meaning neighbors reach out to local police to file a complaint regarding their neighbor’s dog who is left outside, cruelly tethered, and/or in inclement weather. When police arrive, it is left to them to subjectively surmise whether the law is being violated. Law enforcement is given little to rely on with the existing definitions.

The new Sec. 353-g only addresses tethered dogs. Its scope is not as broad as that of Sec. 353-b, which applies to all dogs left outside. However, Sec 353-g would provide critical detail with respect to definitions of what is and is not acceptable with respect to dogs tethered to objects outdoors.

In Sec 353-g(1)(b) the definition of “dangerous weather conditions” is expanded to include any time when a governmental advisory is issued, conditions in accordance with the Tufts Animal Care and Condition Weather Safety Scale,<sup>1</sup> and specific temperature limits, those being above 80 degrees Fahrenheit and below 35 degrees Fahrenheit. These are objectively determinable variables that do not allow for subjective interpretation. Whether or not weather is “inclement” will no longer be debatable with this new legally proscribed threshold, and owners will not be able to leave dogs tethered outside during the dangerous weather conditions defined in this bill.

Similarly, the definition of “shelter” is expanded to not only include the requirements of Sec. 353-b, but also to add more details. Shelter criteria would include having a slanted, waterproof roof, containing specified bedding, and providing specific space requirements with respect to the size of the animal. The definition of “cruel conditions” and “inhumane tethering” in Sec. 353-g(1)(d) is expanded in seven ways. Much needed forbidden practices would be penalized, such as exposing animals to waste or garbage, to harassment or provoking, or to dangerous weather (defined); allowing an animal to get entangled; and the catch-all provision in Sec. 353-g(1)(d)(vii), “any tethering that could reasonably lead to distress, serious discomfort, injury, or death of the dog.” This detailed definition will save many dogs from lives of misery. For example, countless dogs are chained outside in what can only be described as back yard “junk yards.” This bill will make tethering in such environments illegal.

The new requirements provide for even more protections for dogs by providing specific parameters with respect to the tether itself, Sec. 353-g(2)(a), (b), (c) and (f), such as length sufficiency, age of the dog, health conditions of the dog, and individual tethers for multiple dogs. Sec. 353-g(2)(d) would make it unlawful to tether a dog outdoors between 10 pm and 6 am. Critically, Sec. 353-g(2)(e) provides that no dog shall be tethered for a period exceeding four consecutive hours, or a total time in excess of six hours in a 24-hour period. These provisions ensure that tethered dogs are provided some freedom of movement and will essentially make it illegal to tether one’s dog 24 hours a day, which, sadly, many people do currently and suffer no legal consequences.

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<sup>1</sup> <https://www.wiley.com/legacy/wileychi/merck/supp/app29-tuftanimalcareandconditionscalefordogs.pdf>

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All of these details, guidelines, and definitions are critical and necessary, and will allow provisions in the law to be more adequately enforced. The specific provisions related to tethering will be an asset to complainants, law enforcement, and prosecutors since the bill's provisions will remove the personal subjective determinations from the equation. This bill's restrictions would provide much needed relief for the countless dogs who are tethered outside 24 hours a day, in all weather conditions, with insufficient shelter, and/or with little or no space to move, even minimally.

The fines for violating the new Sec. 353-g would be substantial. While the fine for a first offense is a mere \$50, that fine increases substantially for a second offense, to \$1000, and for a third offense, it is \$3000.

In light of the above, the Committee on Animals and the Law wholeheartedly supports the passage and enactment of this bill.

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