

CHAPTER 238
FORMERLY
SENATE BILL NO. 139
AS AMENDED BY
SENATE AMENDMENT NO. 1
AND
HOUSE AMENDMENT NO. 4
AND
HOUSE AMENDMENT NO. 5

AN ACT TO AMEND TITLE 16 AND TITLE 11 OF THE DELAWARE CODE RELATING TO CRUELTY TO DOGS AND SPECIFICATIONS FOR HUMANE HANDLING, CARE AND TREATMENT OF DOGS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 3044F, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3044F Specifications for the humane handling, care, and treatment of dogs.

(c) Outdoor housing facilities. —

(1) Restrictions. ~~Dogs that are not acclimated to the outdoor temperatures prevalent in the area or region where they are maintained and breeds of dogs that cannot tolerate the prevalent outdoor temperatures without stress or discomfort, such as short haired breeds in cold climates, may not be kept in outdoor facilities unless the practice is specifically approved by a licensed veterinarian. Dogs may not~~ No dog shall be confined kept outdoors during outside and unattended during any period in which a hazardous weather advisory or warning has been issued by the National Weather Service for the local area, or where conditions pose a serious adverse risk to the health and safety of a dog. For purposes of this section, the definition of "outside and unattended" shall mean any dog that is exposed to the elements for a duration of longer than 15 minutes and not in visual range and physical presence of the owner. This expressly includes, but is not limited to, a dog in a yard or a dog that is tethered. A dog shall be considered outside regardless of access to an outdoor dog house or similar structure. However, a dog actively engaged in the protection of livestock, farm property, or poultry shall not be considered to be "outside and unattended" provided that such dog has uninterrupted access to enter a dry agricultural building such as a barn.

(2) Shelter from the elements. — Dogs shall be provided with proper shelter to protect them against inclement weather, preserve their body heat, and allow them to remain dry during rain or snow. The shelter shall be substantially moisture proof and windproof structure of suitable size to accommodate the dog and allow retention of body heat. It shall be made of durable material with a solid, moisture-proof floor raised off the ground, and contain ~~Sufficient~~ sufficient clean and moisture-resistant bedding material or other means of protection from the weather, shall be provided, when the ambient temperature falls below the temperature to which the dog is acclimated. Additional bedding material and a windbreak, such as a flap or tarp at the entrance, or other means of protection from the weather shall be provided between November 1 and March 31 or when the temp is 35°F (1.7°C) or lower.

(4) Construction. — Housing facilities for dogs shall be constructed to provide for the health and comfort of the animals. The floors and walls of outside housing facilities shall be constructed and maintained so that they are structurally sound, substantially impervious to moisture, wind, and may be readily sanitized. A dog house shall not be constructed primarily of metal. Mobile or traveling housing facilities, ~~metal~~ barrels, cars, refrigerators or freezers, and the like shall not constitute proper shelter.

(5) Dogs shall be provided access to food and water under paragraphs (e)(2) through (e)(4) of this section in a manner in which the contents will not freeze.

(d) Primary enclosures

(4) Use of tethers. — ~~If dog houses with tethers are used as primary enclosures for dogs kept outdoors, the~~ Tethers shall be attached so that the dog cannot become entangled with other objects or come into physical contact with other dogs in the housing facility, and so the dog can roam to the full range of the tether. The tether shall be of a type commonly used for the size dog involved, made of material not normally susceptible to being severed by the dog through chewing or otherwise, and Tethers shall be attached to the dog by means of a well-fitted collar that will not cause trauma or injury to the dog. Tethers shall not be attached to a choke, pinch, prong, or martingale collar. The tether shall be a minimum of 10 feet in length and allow the dog convenient access to the dog house and to food and water containers. The dog may not be tethered for more than 2 hours when the dog owner or a responsible person is not present on the property.

(5) Wire flooring. — A dog may not be sheltered in a primary enclosure having only wire flooring, ~~if the wire flooring is kept in good repair and does not result in injuries to the dog. The flooring shall be constructed so as not to allow passage of the animal's feet through any openings in the floor of the enclosure. Such flooring shall not sag or bend significantly between structural supports. For primary enclosures built after October 1, 1998, or any floors installed after that date, if the flooring is constructed of metal strands, such strands shall either be greater than 1/8 of an inch in diameter (9 gauge wire) or shall be coated with a material such as plastic or fiberglass.~~

~~(6) Exceptions. — Paragraphs (d)(1) through (5) of this section do not apply to licensed retail dog outlets if all of the following conditions are met:~~

- ~~a. The primary enclosure is constructed and maintained to provide sufficient space to allow the dog to turn about freely and to stand erect, sit, and lie down in a comfortable, normal position.~~
- ~~b. The dog is being offered for sale on a retail basis, or has been sold and is awaiting physical transfer to its new owner.~~
- ~~c. The dog is maintained in a primary enclosure that keeps the dog on display to patrons of the retail dog outlet during its normal business hours.~~

(f) Civil Penalties. —

An owner who refuses, fails or neglects to comply with this section shall be penalized as follows:

- (1) For a first violation, a civil penalty of \$100 in addition to costs.
- (2) For a second violation, a civil penalty of \$250 in addition to costs.

(3) For each subsequent violation, a civil penalty of \$500 in addition to costs.

Section 2. Amend § 3048F, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3048F Dogs running at large.

(a) No dog, unless exempted under this section, shall be permitted to run at large outside at any time, ~~unless the dog is accompanied by the owner or custodian and under the owner's or custodian's reasonable control and is licensed in accordance with state laws, except that a person who is an occupant of a farm or property containing 20 acres or more on which there are no more than 3 resident dwelling units may permit a dog to run at large between October 1 and the last day of the following February.~~ and must be secured by means of a leash that is capable of physically restraining the movement of the dog. A dog is not at large if it is within the real property limits of its owner, or on private property with permission, or within a vehicle being driven or parked.

The following dogs are exempt from the leash requirements and need only be at heel or under reasonable control of a competent person and obedient to the person's command:

1. Working dogs (i.e. dogs that are not merely pets but that learn and perform tasks to assist their human companions) including but not limited to, dogs trained to hunt, herd, assist law enforcement or search and rescue personnel, or assist persons with disabilities, while actively engaged in performing such functions; and

2. Dogs within a designated "off-leash" dog park or area, or within an area permitted by a governmental entity including a municipality, and attended by the dog's owner or custodian.

~~(b) The owner or custodian of every dog shall, at all times between the hours of sunset and sunrise of each day, keep such dog in 1 of the following manners:~~

~~(1) Confined within an enclosure from which it cannot escape.~~

~~(2) Firmly secured by means of a collar or chain or other device so that it cannot stray from the premises on which it is secured.~~

Section 3. Amend § 1325, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1325. Cruelty to animals; class A misdemeanor, class F felony

(a) For the purpose of this section, the following words and phrases shall include, but not be limited to, the meanings respectively ascribed to them as follows:

(6) "Cruelty to animals" includes mistreatment of any animal or neglect of any animal under the care and control of the neglecter, whereby unnecessary or unjustifiable physical pain or suffering is caused. By way of example this includes: Unjustifiable beating of an animal; overworking an animal; tormenting an animal; abandonment of an animal; tethering of any dog for ~~18~~ 9 consecutive hours or more in any 24-hour period, ~~except on any farm on land owned or leased by the dog's owner that is not less than 10 acres;~~ tethering of any dog for any amount of time if the dog is under 4 months of age or is a nursing mother

while the offspring are present, except on any farm ~~except on land owned or leased by the dog's owner that is not less than 10 acres~~; and failure to feed properly or give proper shelter or veterinary care to an animal.

() "Farm" means any place that meets the 2017 USDA Federal Census of Agriculture definition of farm: "any place from which \$1,000 or more of agricultural products were produced and sold, or normally would have been sold, during the census year".

Approved March 11, 2020