



SPONSOR: Sen. Hansen & Sen. Walsh & Rep. Bennett
Sen. Henry; Reps. Brady, Kowalko, Mitchell, Mulrooney,
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DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE BILL NO. 216

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

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

1 Section 1. Amend § 1325, Title 11 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 1325. Cruelty to animals; class A misdemeanor; class F felony.

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

6 (4) "Cruel mistreatment" means cruelty to animals and includes any treatment whereby unnecessary or
7 unjustifiable physical pain or suffering is caused or permitted.

8 (5) "Cruel neglect" means cruelty to animals and includes neglect of an animal, which is under the care
9 and control of the neglecter, whereby pain or suffering is caused to the animal or abandonment of any
10 domesticated animal by its owner or custodian. By way of example, cruel neglect shall also include allowing an
11 animal to live in unsanitary conditions, such as keeping an animal where the animal's own excrement is not
12 removed from the animal's living area and/or other living conditions which are injurious to the animal's health.

13 (6) "Cruelty to animals" includes mistreatment of any animal or neglect of any animal under the care and
14 control of the neglecter, whereby unnecessary or unjustifiable physical pain or suffering is caused. By way of
15 example this includes: Unjustifiable beating of an animal; overworking an animal; tormenting an animal;
16 abandonment of an animal; tethering of dog for 18 hours or more in any 24-hour period, except on land owned or
17 leased by the dog's owner that is not less than 10 acres; tethering any dog for any amount of time if the dog is
18 under 4 months of age or is a nursing mother while the offspring are present, except on land owned or leased by
19 the dog's owner that is not less than 10 acres; and failure to feed properly or give proper shelter or veterinary care
20 to an animal.

21 (10) "Proper shelter" includes providing each animal with adequate shelter from the weather elements as
22 required to prevent unnecessary or unjustifiable physical pain or suffering by the animal and for dogs, the
23 enhanced shelter requirements under § 3044F(c)(5) of Title 16.

24 (h) Exclusive jurisdiction of offenses under this section relating to animals left in motor ~~vehicles or vehicles,~~ the
25 tethering of ~~dogs dogs,~~ or third or subsequent violations of § 3044F(c) of Title 16 shall be in the Superior Court.

26 Section 2. Amend § 3044F, Title 16 of the Delaware Code by making deletions as shown by strike through and
27 insertions as shown by underline as follows:

28 § 3044F. Specifications for the humane handling, care, and treatment of dogs.

29 (c) Outdoor housing facilities. —

30 (1) *Restrictions.* —

31 a. Dogs that are not acclimated to the outdoor temperatures prevalent in the area or region where they
32 are maintained and breeds of dogs that cannot tolerate the prevalent outdoor temperatures without stress
33 or discomfort, such as short-haired breeds in cold climates, may not be kept in outdoor housing facilities
34 unless the practice is specifically approved by a licensed veterinarian.

35 b. Dogs may not be kept outdoors during a hazardous weather warning issued by the National
36 Weather Service for the local area.

37 ~~(2) Shelter from the elements.—Dogs shall be provided with proper shelter to protect them against~~
38 ~~inclement weather, preserve their body heat, and allow them to remain dry during rain or snow. Sufficient clean~~
39 ~~and moisture resistant bedding material or other means of protection from the weather shall be provided when the~~
40 ~~ambient temperature falls below the temperature to which the dog is acclimated. Additional bedding material or~~
41 ~~other means of protection shall be provided when the temperature is 35°F (1.7°C) or lower.~~

42 ~~(3) Shelter from sunlight.—In addition to the shelter structure, 1 or more separate outside areas of shade~~
43 ~~shall be provided to allow the dogs to protect themselves when sunlight is likely to cause overheating or~~
44 ~~discomfort.~~

45 ~~(4) Construction.—Housing facilities for dogs shall be constructed to provide for the health and comfort~~
46 ~~of the animals. The floors and walls of outdoor housing facilities shall be constructed and maintained so that they~~
47 ~~are substantially impervious to moisture and may be readily sanitized. Mobile or traveling housing facilities, metal~~
48 ~~barrels, cars, refrigerators or freezers, and the like shall not constitute proper shelter.~~

49 (2) Shelter from sunlight. — One or more separate, accessible, outside areas of shade, in addition to the
50 outdoor housing facility, must be provided to allow the dogs to protect themselves when sunlight is likely to cause
51 overheating or discomfort.

52 (3) Construction. — Outdoor housing facilities for dogs must be constructed to provide for the health and
53 comfort of the animals. The floors and walls of outdoor housing facilities must be constructed and maintained so
54 that they are substantially impervious to moisture and wind and may be readily sanitized. All of the following do
55 not constitute outdoor housing facilities for dogs: mobile or traveling housing facilities, metal barrels, cars,
56 refrigerators or freezers, and cages, crates, and carriers that are intended for travel or short-term, temporary
57 confinement.

58 (4) Shelter from the elements. —

59 a. Dogs must be provided with either an outdoor housing facility under paragraphs (c)(1) through
60 (c)(3) of this section or enhanced shelter under paragraph (c)(5) of this section that will protect them
61 against inclement weather, preserve their body heat, and allow them to remain dry during rain or snow.

62 b. Clean and moisture-resistant bedding material must be provided in the outdoor housing facility or
63 enhanced shelter.

64 (5) Enhanced shelter. —

65 a. Dogs must be provided with an enhanced shelter if kept outdoors in any of the following
66 circumstances:

67 1. For more than 30 minutes between the hours of 11:00 pm and 6:00 am.

68 2. For more than 30 minutes when the temperature is below 32 degrees Fahrenheit or above 90
69 degrees Fahrenheit.

70 b. “Enhanced shelter” means shelter that meets all of the following requirements:

71 1. Provides a minimum amount of solid floor space, calculated under 9 C.F.R. § 3.6(c)(1), to
72 allow each dog to attain solid footing and a space for resting.

73 2. Provides heat when the temperature falls below 32 degrees Fahrenheit and circulates fresh air
74 through the shelter when the temperature rises above 90 degrees Fahrenheit.

75 3. Provides food and water receptacles in such a manner that the contents of the receptacles will
76 not freeze when the temperature is below 32 degrees Fahrenheit.

77 c. There must be adequate space outside of the enhanced shelter to allow the dog to establish a
78 separate area for feeding, urinating, and defecating. Adequate space means no less than the following:

- 79 1. For a dog that weighs 50 pounds or more, 4 feet by 6 feet, or 24 square feet.
- 80 2. For a dog that weighs 36 through 49 pounds, 4 feet by 5 feet, or 20 square feet.
- 81 3. For a dog that weighs below 36 pounds, 3 feet by 4 feet, or 12 square feet.

82 (f) Penalties. An owner who refuses, fails, or neglects to comply with this section is punished as follows:

- 83 (1) For a first citation, fined not less than \$100 and not more than \$1,000, in addition to costs.
- 84 (2) For a second citation, fined not less than \$500 and not more than \$1,000, in addition to costs.
- 85 (3) For a third or subsequent citation, fined \$1,000 or prosecuted under § 1325 of Title 11.

SYNOPSIS

This Act strengthens the shelter requirements for dogs that are kept outside by requiring the following:

1. Adds failure to provide enhanced shelter to the crime of cruelty to animals.
2. Adds a third or subsequent violation of the shelter requirements, to the crime of cruelty to animals.
3. That dogs be provided with enhanced shelter if the dog is outdoors for more than 30 minutes between the hours of 11:00 pm and 6:00 am or when the temperature is below 32 degrees Fahrenheit or above 90 degrees Fahrenheit.
4. That cages, crates, and carriers intended for travel or short-term, temporary confinement may not be used as outdoor housing facilities.
5. That outdoor housing facilities and enhanced shelters must provide clean and moisture-resistant bedding material and protection from wind.
6. That an enhanced shelter must include the following: minimum space requirements; heat when the temperature is below 32 degrees Fahrenheit; fresh, circulating air when the temperature is above 90 degrees Fahrenheit; and food and water that do not freeze.

This Act also imposes a higher civil penalty for subsequent violations of § 3044F, the specifications for the humane handling, care, and treatment of dogs.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Hansen